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Of Attorneys for Defendants State of Oregon, Highberger, Kelly, Prins, Wagner, Jones, Hyde, Hill, Asay, Nawaz, Summers, Smith, Wold, Golden, Warren, Sandlin, Long, Wallace, Gates, Thomas, Lynch, Bristol, Balogun, and Plante

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

D.A.,

Plaintiff,

v.

STATE OF OREGON, JOSH HIGHBERGER,
BRANDON KELLY, CRAIG PRINS,
JEREMY WAGNER, NICK JONES,
JONATHAN HYDE, MIKE HILL, C/O
ACEY, NAUMANN NAWAZ, JEREMY
SUMMERS, C/O SMITH, TINA WOLD,
DONALD GOLDEN, NATHAN WARREN,
JASON SANDLIN, GARY LONG,
RICHARD WALLACE, KRISTINE GATES,
JAMES THOMAS, KRYSTA LYNCH,
THOMAS BRISTOL, MORIAM BALOGUN,
JERRY PLANTE, and JOHN AND JANE
DOES 1-20,

Defendants.

Case No. 6:22-cv-00311-YY

STATE DEFENDANTS' ANSWER AND
AFFIRMATIVE DEFENSES

Jury Trial Requested

Defendants State of Oregon, Highberger, Kelly, Prins, Wagner, Jones, Hyde, Hill, Asay,

Nawaz, Summers, Smith, Wold, Golden, Warren, Sandlin, Long, Wallace, Gates, Thomas, Lynch,

Bristol, Balogun, and Plante (collectively referred to as “State Defendants”), by and through the undersigned, in response to Plaintiff’s Complaint, admit, deny, and allege as follows.

State Defendants deny each and every allegation of Plaintiff’s Complaint not expressly admitted herein.

1.

State Defendants admit that Plaintiff D.A. is an adult-in-custody who is currently in the custody of the Oregon Department of Corrections (“ODOC”).

2.

State Defendants admit that ODOC is an agency of the State of Oregon and that the Oregon State Correctional Institution (“OSCI”), the Oregon State Penitentiary (“OSP”), and the Coffee Creek Intake Center (“CCIC”) are operated by ODOC.

3.

State Defendants admit that Joshua Highberger is currently employed with ODOC as the Superintendent at OSCI.

4.

State Defendants admit that Brandon Kelly was previously employed with ODOC as the Superintendent at OSP.

5.

State Defendants admit that Craig Prins is currently employed with ODOC as the Inspector General.

6.

State Defendants admit that Jeremy Wagner is currently employed with ODOC as the Assistant Superintendent of Security at OSCI.

7.

State Defendants admit that Nickalas Jones is currently employed with ODOC as a Correctional Captain at OSCI.

8.

State Defendants admit that Jonathan Hyde is currently employed with ODOC as a Correctional Captain at OSCI.

9.

State Defendants admit that Michael Hill was previously employed with ODOC.

10.

State Defendants admit that Anthony Asay is currently employed with ODOC as a Correctional Lieutenant at OSCI.

11.

State Defendants admit that Naumaan Nawaz is currently employed with ODOC as a Food Service Manager at OSCI.

12.

State Defendants admit that Jeremy Summers is currently employed with ODOC as a Correctional Lieutenant at OSCI.

13.

State Defendants admit that Nicole Smith is currently employed with ODOC as a Correctional Sergeant at OSCI.

14.

State Defendants admit that Tina Wold is currently employed with ODOC as an Office Specialist at OSCI.

15.

State Defendants admit that Donald Golden is currently employed with ODOC as a Correctional Hearings Officer at OSCI.

16.

State Defendants admit that Nathan Warren is currently employed with ODOC as a Supervisory Executive Assistant at OSCI.

17.

State Defendants admit that Jason Sandlin is currently employed with ODOC as a Correctional Sergeant at OSCI.

18.

State Defendants admit that Gary Long is currently employed with ODOC as a Correctional Officer at OSCI.

19.

State Defendants admit that Richard Wallace is currently employed with ODOC as a Correctional Lieutenant at OSCI.

20.

State Defendants admit that Kristine Gates is currently employed with ODOC as a manager of Behavioral Health Services (“BHS”) at OSCI.

21.

State Defendants admit that James Thomas is currently employed with ODOC as a Correctional Officer at OSCI.

22.

State Defendants admit that Krysta Lynch is currently employed with ODOC as a Health Services Technician at OSCI.

23.

State Defendants admit that Thomas Bristol is currently employed with ODOC as a Correctional Physician Specialist at OSP.

24.

State Defendants admit that Moriam Balogun is currently employed with ODOC as a Nurse Practitioner at OSCI.

25.

State Defendants admit that Jerry Plante is currently employed with ODOC as an Inspector.

26.

To the extent the remainder of Plaintiff's allegations do not constitute legal arguments to which no response is required, State Defendants lack sufficient knowledge to admit or deny the allegations at this time and therefore deny the same.

FIRST AFFIRMATIVE DEFENSE

Failure to State a Claim

27.

Plaintiff fails to state a claim upon which this Court can grant relief under one or more of the theories set forth in the Complaint.

SECOND AFFIRMATIVE DEFENSE

OTCA

28.

State Defendants assert all provisions of the Oregon Tort Claims Act ("OTCA"), including, but not limited to, the provision requiring timely tort claim notice, and the provision establishing a tort claims cap to Plaintiff's state claims.

THIRD AFFIRMATIVE DEFENSE

Eleventh Amendment Immunity

29.

State Defendants allege they are immune from suit in federal court as to federal law claims pled against them in their official capacities and as to state and common law claims.

FOURTH AFFIRMATIVE DEFENSE

Qualified Immunity

30.

State Defendants allege that at all times relevant to Plaintiff's Complaint, they were acting in good faith and within their discretion pursuant to the laws and statutes of the State of Oregon and the United States, and that their conduct violated no clearly established statutory or constitutional rights of which a reasonable official would have knowledge.

FIFTH AFFIRMATIVE DEFENSE

PLRA

31.

State Defendants assert all provisions of the Prison Litigation Reform Act ("PLRA"), including the provision requiring exhaustion of administrative remedies, to Plaintiff's claims.

SIXTH AFFIRMATIVE DEFENSE

Statute of Limitations

32.

All allegations outside of the statute of limitations period are barred.

RESERVATION OF ADDITIONAL DEFENSES

33.

State Defendants reserve the right to assert additional defenses as may become known to them through investigation and discovery.

JURY TRIAL DEMAND

34.

State Defendants demand a jury trial.

WHEREFORE, having fully answered Plaintiff's Complaint herein, State Defendants pray for a judgment in their favor, for dismissal of Plaintiff's Complaint with prejudice against State Defendants, for an award of costs and disbursements incurred herein, and for such other and further relief as the Court may deem appropriate.

DATED June 3, 2022.

Respectfully submitted,

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s/ Jessica Spooner

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